

## Important Revisions to Draft Technical Report since First Public Hearing

Comments made by stakeholders and Board members, along with the recent Court of Appeal's decision in *City of Arcadia v. State Water Resources Control Board*, resulted in important changes to the draft Technical Report. These changes pertain to 1) the length of the compliance schedule, 2) the information presented in the TMDL tables in section 9, 3) Appendix I, which describes the methodology for allocating TMDLs amongst different discharger categories, and 4) Appendix R, the environmental analysis and checklist. These changes are discussed below.

### 1. Length of Compliance Schedule

The compliance schedule was modified to account for the difficulty that dischargers face in meeting the stringent total coliform water quality objectives (WQOs) for SHELL. Recent research has shown that bacteria from natural sources (birds and other wildlife) cause exceedances of the WQOs for REC-1 at high frequencies (Schiff et al., 2005). Natural sources in four reference watersheds in Southern California were found to cause exceedances of REC-1 WQOs at an average frequency of 27 percent. The San Diego Water Board analyzed the total coliform data collected by the researchers and found that total coliform density at the four reference beaches exceeded the SHELL single sample WQOs at an average frequency of 53 percent.

Because of the high background loading of total coliform from natural sources, meeting the SHELL wasteload allocations will be difficult. Therefore, the compliance schedule was changed from 12 years to 17 years in areas where shellfishing is shown not to occur. The longer compliance time schedule is reasonable because it will not increase the risk to public health at beaches where shellfishing is not occurring. Dischargers must conduct surveys or provide other means of demonstrating that shellfishing is not occurring in a particular shoreline segment if they are to get the longer compliance schedule for the SHELL TMDLs for total coliform.

The City of San Diego proposed a 20-year compliance schedule to meet metals and bacteria wasteload allocations in the Chollas Creek watershed through an integrated BMP approach. The Chollas Creek metals TMDL compliance schedule was revised to give the dischargers 20 years to address required load reductions from multiple water quality improvement projects in addition to bacteria; namely TMDLs for copper, lead, zinc, and diazinon, and a trash reduction program. This tailored compliance schedule requires comprehensive and integrated BMP planning and load reductions for all impairing pollutants as described in *Total Maximum Daily Loads for Dissolved Copper, Lead, and Zinc in Chollas Creek, Tributary to San Diego Bay*.

## **2. Changes to TMDL Tables**

The TMDL tables in section 9 of the draft Technical Report were re-structured to show percent reductions required from discharger categories in each watershed. The December 9, 2005 version of the draft Technical Report showed the percent reduction needed in each watershed, without showing the reductions needed for each discharger category. This change was made because watershed-wide load reduction percentages were misleading, as they are smaller than the load reduction percentages for the individual discharger categories. For example, in the San Diego River watershed, the watershed-wide required percent reduction for enterococci is 9.2 percent, which was reported in the draft Technical Report dated December 9, 2005. However, much of the existing load comes from open space and is uncontrollable. The required reduction for municipal dischargers, the only major controllable source of bacteria in this watershed, is 43 percent. Municipal dischargers are allocated a percent reduction that is proportional to their existing load. The TMDL tables were thus changed to reflect the load reductions required from dischargers of controllable sources, instead of reporting the load reductions on a watershed-wide basis. The methodology for allocations is described in Appendix I.

Additionally, TMDLs for dry weather were changed from “annual loads” to “monthly” loads. This change was made because the numeric targets for dry weather TMDLs are equal to the 30-day geometric mean water quality objectives; therefore dry weather TMDLs should be based on the same timescale for which the numeric targets are based.

## **3. Changes to Appendix I**

Appendix I describes how TMDLs were allocated to the four different discharger categories: municipal dischargers, Caltrans, agriculture and livestock operations dischargers, and open space. The methodology used in the draft Technical Report dated December 9, 2005 assumed a reduction would occur from all discharger categories, including uncontrollable sources largely found in open space areas. This inconsistency was corrected in the revised methodology presented in Appendix I by setting the load allocation to open space equal to the existing load. As a consequence, wasteload and load allocations for controllable sources were lowered.

Wet weather load reductions are required of agriculture and livestock facility dischargers only in watersheds where they contribute more than 5 percent of the existing bacteria load. These four watersheds are the San Juan Creek, San Luis Rey River, San Marcos Creek, and San Dieguito River watersheds. In all other watersheds, the load allocations to agriculture and livestock facility dischargers are equal to the existing loads. The draft Technical Report was therefore revised to clarify that, although agriculture and livestock facility dischargers got allocations in all watersheds, there is only a required reduction in four watersheds.

#### **4. Changes to Appendix R**

Appendix R, the environmental analysis and checklist, was greatly expanded from the draft Technical Report dated December 9, 2005 to ensure the substitute environmental documents for the project were consistent with the recent Court of Appeals interpretation of the California Environmental Quality Act (CEQA) requirements for certified regulatory programs (*City of Arcadia v. State Water Resources Control Board*). Changes included: explanation of “no impact” answers, an expanded specific sites analysis, and a description of the environmental analysis requirements pursuant to CEQA, and where the requirements are located in the regulations.

A statement of overriding considerations was added to the Determination section of the environmental analysis to recognize that specific projects that may have a significant impact would be subject to a separate environmental review. The lead agency for subsequent projects would be obligated to mitigate any impacts they identify, for example, by mitigating potential flooding impacts by designing the BMPs with adequate margins of safety.

Furthermore, implementation of the TMDLs is both necessary and beneficial. If at some time, it is determined that the alternatives, mitigation measures, or both, are not deemed feasible by those local agencies, the necessity of implementing the federally required TMDLs and removing the indicator impairment from the San Diego Region (an action required to achieve the express, national policy of the Clean Water Act) remains.

#### **Reference**

Schiff, K., J. Griffith, and G. Lyon. 2005. Microbial Water Quality at Reference Beaches in Southern California During Wet Weather. Southern California Coastal Water Research Project Technical Report # 448. Southern California Coastal Water Research Project, Westminster, CA.